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March 6, 2006

**VIA ELECTRONIC SUBMISSION**

Office of Electricity Delivery and  
Energy Reliability  
OE-20  
Attn: EPACT 1221 Comments  
U.S. Department of Energy  
Forestall Building, Room 6H-050  
1000 Independence Avenue, SW  
Washington, DC 20585

Re: Considerations for Transmission Congestion Study and Designation of  
National Interest Electric Transmission Corridors

Request for Early Designation of Constrained Area as National Interest  
Electric Transmission Corridor

Dear Sir or Madam:

New York Regional Interconnect, Inc. ("NYRI") submits these comments in response to the Notice published in the Federal Register on February 2, 2006 by the Department of Energy ("Department"), Office of Electricity Delivery and Energy Reliability. (Considerations for Transmission Congestion Study and Designation of National Interest Electric Transmission Corridors, 71 Fed. Reg. 5660 [February 2, 2006]). The Department has requested comments concerning its plans for an electricity transmission congestion study and possible designation of National Interest Electric Transmission Corridors ("NIETC") pursuant to Section 1221 (a) of the Energy Policy Act of 2005 ("Act"). The Department also invited parties to identify areas in which there is a "particularly acute need for early designation as NIETC."

NYRI requests that the Department designate as a NIETC a transmission corridor in New York state from the Edic substation in Marcy, Oneida County to the Rock Tavern substation in New Windsor, Orange County. The end markets that will be served by this corridor already experience the effects of constraints that result in a lack of adequate and reasonably priced electricity. Moreover, because of the need date for additional resources to

serve these end markets, it is crucial for this corridor to be designated as a NIETC as soon as possible so that the needs of these end markets can be met.

## **I. Correspondence and Communication**

Correspondence and communication regarding these comments should be directed to:

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## **II. Description of NYRI**

NYRI is a privately owned corporation organized under the laws of the State of New York, including the New York Transportation Corporations Law, for the purpose of developing, constructing and operating transmission assets that allow for the provision of non-discriminatory access to the energy markets in New York. NYRI is not affiliated with any other energy company and does not own any generation, existing transmission or distribution assets.

NYRI's core concentrations are to enhance reliability and to offer transportation products that will improve market efficiencies for stakeholders in the New York electricity markets. The NYRI Project is nominally a 1200 MW HVDC transmission facility that is planned to interconnect entirely within the New York Control Area between Edic substation in Marcy, New York and Rock Tavern substation in New Windsor, New York. The end market that will be served by this transmission facility is southeastern New York, one of the most highly constrained, high priced electricity markets in the U.S. It is NYRI's intention to: complete the permitting, construction, commissioning and operation of a proposed new transmission facility that will improve the reliability and security of the New York Bulk Power Transmission System; operate the proposed transmission facility so as to enable

continued market development and increased competition; provide access for ratepayers and load serving entities seeking a more diversified supply base of technologies and fuel sources and for generators seeking to offer their energy products to deep load pockets; facilitate sustainable improvements in air quality; and provide reliability enhancements that will reinforce and stabilize the interconnected AC transmission system.

NYRI has been actively developing its proposed transmission facility for more than 3 years. This transmission project initially obtained a position in the New York Independent System Operator (“NYISO”) interconnection project queue in August, 2001. In addition, NYRI secured site control for a portion of the proposed transmission route in 2003. Since that time NYRI has filed its interconnection application with the NYISO and executed a feasibility study agreement with the NYISO and the two interconnected Transmission Owners. More recently, in February, 2006, NYRI submitted its solution response to the NYISO’s solicitation for needed reliability solutions in the NYISO’s Reliability Needs Assessment. And, in May of this year, NYRI will file an application for a Certificate of Environmental Compatibility and Public Need for the transmission facility pursuant to Article VII of the New York Public Service Law.

### **III. DISCUSSION**

#### **A. NYRI’s Proposed Corridor Should be Designated as a NIETC**

Under section 1221(a) of the Act, (section 216 of the Federal Power Act, 16 U.S.C. section 824p), the Secretary of Energy may designate “any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.” In exercising authority to designate a NIETC, the Secretary may consider, among other things, whether, “the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity.” (Section 216 [a][4]).

The corridor proposed herein for early designation as a NIETC will result in additional transmission resources between New York Independent System Operator (“NYISO”) Zone E and NYISO Zone G. There is no dispute that the end markets to be served by this proposed corridor, NYISO Zones G-K, are now, and are expected to continue to be, constrained in the near future by lack of adequate and reasonably priced electricity.

In its Transmission Bottleneck Project Report, dated March 19, 2003 (“Bottleneck Report”), the Department stated that “congestion in the U.S. electricity transmission system places daily constraints on electricity trade increasing both electricity costs to consumers and impacts reliable operations.” (Bottleneck Report at 5.) In that report, three major bottlenecks in New York were identified: (1) flows from Western New York to Central East; (2) flows from North to South in eastern New York (Leeds to Pleasant Valley); and (3) flows from Pleasant Valley to cables feeding New York City and Long Island. (*Id.* at 10.) These

constrained interfaces limit the amount of power that can flow from generating resources in the western part of New York, Canada and other regions into southeastern New York, including New York City, the largest load center in the Northeast.

The constraints both jeopardize reliable service in Southeastern New York (“SENY”) and limit the flows of less expensive power into SENY and, thus, constrain the economic vitality of the end markets to be served by NYRI’s proposed corridor.

### **1. Existing Transmission Constraints Jeopardize Reliable Service in SENY**

In its Comprehensive Reliability Planning Process, Reliability Needs Assessment (“RNA”) dated December 21, 2005, the NYISO concluded that SENY, defined as load zones G-K, may experience a resource adequacy criterion violation as early as 2008. (A copy of the December 21, 2005 RNA is available at [www.nyiso.org/public/webdocs/newsroom/press\\_releases/2005/rna\\_final12212005.pdf](http://www.nyiso.org/public/webdocs/newsroom/press_releases/2005/rna_final12212005.pdf)) In the RNA, the NYISO found that:

The New York State bulk-power baseline system for the first Five Year period (2005-2010) indicates that the forecasted system does not meet reliability criteria. Therefore, because of continued load growth and no resource additions, the second Five Year period does not meet reliability criteria. Load growth in excess of two percent per year which totals 5,000 MW in SENY, defined as load zones G-K, with the minimal addition of 1250 MW of net new generating capacity in that area over the last ten years, has led to increasing dependence on the transmission system to meet capacity and energy needs in SENY. The demands that are increasingly being placed on the transmission system in conjunction with other system changes, consisting primarily of generating unit retirements listed in table 1, neighboring system changes, and load growth have and will continue to result in voltage criteria violations at much lower transfer levels than had previously been observed. The result is that transfers into SENY will be limited by voltage constraints rather than thermal constraints. This reduced capability to make power transfers to SENY due to these voltage constraints, coupled with continued load growth in SENY results in a resource adequacy criterion violation as early as 2008.

(RNA at 4-5.)

The New York State Power System is planned to meet a loss of load expectation (“LOLE”) that is less than or equal to an involuntary load disconnection that is not more than once in every 10 years or 0.1 days per year. In the RNA base case, the LOLE for NYISO Zone J (New York City) increases to 2.4 days per year in 2010, well above the 0.1 days per year considered acceptable by the NYISO. (*Id.* at 5). According to the NYISO, the additional generation needed to meet the 0.1 days per year LOLE reliability criterion for the

New York Control Area in 2010 is 1,750 MW. This includes 250 MW in NYISO Zone I, 1250 MW in NYISO Zone J, and 250 MW in NYISO Zone K. (Id. at 6.) The need for additional generation in SENY increases to 2,250 MW in 2015.

Consolidated Edison Company of New York, Inc. (“Con Edison”) also has performed its own System Reliability Assurance Study, dated December 30, 2005 (“SRAS”), to, in part, determine the supply and demand resource options that may be needed to meet system demand, particularly in New York City, during the 10 year period from 2006-2015. While the Con Edison SRAS determined that the need for additional generation capacity in New York City was both later and less than in the NYISO RNA (Con Edison claims that NYC will need 118 MW in 2012 increasing to 672 MW in 2015) the Con Edison study concludes that, within SENY, the lower Hudson Valley need will be 430 to 770 MW in 2010 increasing to 2,508 MW in 2015. (Con Edison SRAS at 8, Figure ES-2. NYRI will provide a copy of the Con Edison SRAS to DOE upon request.)

Thus, the two most recent studies performed to determine electric system adequacy and reliability in New York State have determined that additional resources are needed in SENY in the near future. This serious need for additional capacity in SENY cannot be met through the existing transmission assets. The transmission interfaces into SENY are limited by both voltage and thermal constraints. According to the NYISO, the ability to transfer power into SENY will be significantly limited by voltage constraints in the Lower Hudson Valley unless corrective actions are taken. (RNA at 6.) With respect to thermal constraints, the import capability from Upstate New York to SENY is 4900 MW (RNA, Appendix at 17) and the import capability into NYISO Zone J (New York City) is 5,320 MW. (NYISO, Locational Installed Capacity Requirements Study, February 9, 2006 at 5; available at [www.nyiso.com/public/webdocs/services/planning/resource\\_adequacy/2006\\_lcr\\_report.pdf](http://www.nyiso.com/public/webdocs/services/planning/resource_adequacy/2006_lcr_report.pdf)) Clearly, transmission constraints of existing transmission resources significantly limit the ability to meet reliability needs in SENY.

The economic vitality and development of the end markets served by the corridor proposed by NYRI for designation as a NIETC will be constrained by lack of adequate electricity resources. As the Department states in the NOI, “[m]aintaining high electricity reliability is essential to any area’s health and future development.” (71 Fed. Reg. 5661.) With respect to SENY, the end market served by this corridor, the NYISO projects that unless corrective action is taken, the loss of load expectation in New York City Zone J in the year 2010 will be 2.4 days per year, well in excess of the 0.1 days per that is defined as adequate. The demonstrated reliability need in SENY meets the requirement of the Act for designation of a NIETC to address this need.

## **2. Existing Transmission Constraints Limit the Flow of Less Expensive Power into SENY**

The Act also permits the Secretary to designate a corridor as a NIETC if the end markets to be served by the corridor may be constrained by lack of reasonably priced electricity. (Act at Section 1221 [a][4][A].) The same constraints that result in the economic vitality of SENY being constrained by lack of adequate and reliable electricity, also prevent more reasonably priced electricity from flowing into this market.

The fact that transmission constraints prevent the flow of more reasonably priced electricity into SENY has long been recognized by the NYISO. In its Power Alert III Report, dated May, 2003, the NYISO stated:

Since operations of NY wholesale electricity markets began in December 1999, the NY market has incurred \$2.75 billion dollars in congestion cost. ... This level of congestion indicates there is significant potential to reduce system congestion cost by increasing the transfer capability between Marcy and Pleasant Valley and into the New York City and Long Island load pockets.

(NYISO, Power Alert III, May, 2003 at 35.)

The DOE has recognized that a large part of the congestion costs within the state of New York are caused by transmission constraints that limit the amount of power that can flow into SENY. (See Bottleneck Report 52.) As a result of this congestion, residential, commercial and industrial customers in that region have been charged hundreds of millions of dollars more each year for power as higher cost resources in the southeastern region are dispatched. According to DOE's own analysis, the estimated congestion costs resulting from the constrained areas into southeastern New York (which correspond with the Central-East interface) in 2000 alone were \$784 million. Projected congestion costs for the entire New York control area in subsequent years are similarly high. The NYISO projected that statewide congestion costs in 2006 would be \$481 million. This amount remains a significant drain on the New York markets. (*Id.* at 52.)

## **3. The Proposed Transmission Corridor Will Alleviate the Existing Constraints**

As stated above, NYRI requests that DOE designate as a NIETC a corridor between National Grid's existing Edic substation in Marcy, Oneida County, New York and Central Hudson Gas & Electric's existing Rock Tavern substation in New Windsor, Orange County, New York. (The proposed corridor is shown on the map attached as Exhibit A.) This path

traverses the major transmission constraints in New York that are described above. (The major transmission constraints in New York are shown on the map attached as Exhibit B.) If designated as a NIETC by DOE, the corridor would represent an optimal location for additional transmission facilities that could relieve current transmission constraints.

This corridor will provide a new transmission path between a point at which existing generation is available and a point at which there is an increasing need for new generation resources that cannot be met through existing transmission assets. The northern point of the corridor, the Edic substation, is west of the constrained Central-East and North-South interfaces, thus there are no transmission constraints into Edic. In addition to being an access point to existing excess generation capacity that exists in upstate New York, Edic provides access to generation in the PJM, ECAR, and Ontario Hydro and Hydro Quebec systems. It also is important to note that the Edic point provides access to the large amount of renewable power that is on line and in development in areas north and west of SENY and it provides access to many different fuel technologies.

The southern point of the proposed corridor, the Rock Tavern substation owned by Central Hudson, is within the end market that is constrained by the lack of transmission resources into SENY. Importantly, NYRI has determined that a new transmission interconnection from Edic to Rock Tavern will in fact alleviate both the adverse reliability and economic disparity issues that exist in the current system.

According to a report produced by General Electric Energy for NYRI using GE Energy's proprietary MAPS software, a project like NYRI's proposed transmission facility would provide economic benefits to New York electricity consumers by reducing the cost to serve New York load by \$421 million per year, or roughly 3%.<sup>1</sup> Additional transmission capacity along the proposed corridor also would offer significant economic benefits by reducing the state's reliance on expensive must-run generation. Economic benefits also would accrue to other New York market participants by allowing them non-discriminatory access to additional transmission capacity connected to the load centers in southeastern New York.

NYRI's proposed transmission facility also would address reliability concerns by increasing the amount of transmission capacity available to deliver power from new or currently underused generation into southeastern New York. The additional transmission capacity will only improve reliability in the state by ensuring that adequate resources can reach demand centers. As discussed in NYRI's GE Report, the expected reliability benefits from NYRI's proposal are estimated to be \$43 million per year.

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<sup>1</sup> The GE Report is not attached to this filing because it contains proprietary, trade secret information that cannot be disclosed to the general public.

The NYISO also expressed concerns that the "ability to transfer power into [southeastern New York] will be significantly limited by voltage constraints in the Lower Hudson Valley (LHV) unless corrective actions are taken." (RNA at 6.) NYRI's proposal to construct new transmission facilities along the proposed corridor would address these voltage concerns. NYRI estimates that the project will deliver up to 300 MVARs of supplementary reactive power support (in addition to its own reactive load requirements) to the system at Rock Tavern. The NYRI project would also provide the NYISO with the ability to precisely control power on the HVDC line, improving the interconnected system's stability and steady state voltage performance.

A designated transmission corridor is the most efficient means of addressing the economic and reliability concerns identified by the NYISO. New large scale generation projects within SENY, to meet the reliability needs of this region within New York state, are at best speculative. Article X of the New York Public Service Law, which had streamlined the permitting process for major electric generating facilities, defined as facilities with a generating capacity of 80 MW or more (NY Public Service Law section 160 [2]), expired on January 1, 2003 and has not been reenacted. In the absence of Article X or a similar generation siting statute, the ability to site and permit a generating facility in New York will continue to be severely limited. Indeed, NYRI is aware of only one baseload generating project in New York that has sought certification since the expiration of Article X. Furthermore, because the need for additional generation to meet reliability criteria that has been identified by the NYISO exists in SENY, one of the most densely populated and highly urbanized areas in the United States, certification of a new generating facility in that geographic area to meet this requirement is even more unlikely.

However, there is existing generation capacity within the NYCA that could address the reliability needs in SENY identified by NYISO and Con Edison. In 2006, the existing generating capacity in NYISO Zones A-F is 19,301 MW (NYISO, Locational Installed Capacity Requirements Study, February 9, 2006 at 5.) Peak load in 2006 in Zones A-F is projected by the NYISO at 12,609 MW (Id.) As such, according to the NYISO, there is almost 6,700 MW of existing generating capacity in Zones A-F that is not needed to meet peak load in those zones.

The corridor proposed by NYRI as a NIETC would allow the large amount of existing capacity in Zones A-F, as well as capacity in PJM, ECAR, OH and HQ, to reach the SENY zones and alleviate the economic and reliability issues identified by the NYISO. Accordingly, designation of NYRI's proposed corridor is a practical and efficient solution to the constraint that exist in the SENY end market.

NYRI is aware of DOE's statement in the NOI corridors proposed for NIETC status be for a "generalized electricity path between two locations, as opposed to specific routes for transmission facilities." (71 Fed. Reg. at 5661). Accordingly, NYRI requests for designation as a NIETC a corridor between the Edic substation and the Rock Tavern substation. However, the route proposed by NYRI is the shortest reasonable distance between these two



locations. A route between the two points that is further east than the route proposed by NYRI would encounter the Catskill Park and the existing Marcy South transmission facility. The other potential route involves running east to Albany and then south to SENY a route that likely would need to parallel the New York State Thruway to Albany and then run south along the thruway, existing railroad lines and/or the Hudson River. This route also is impractical compared to NYRI's proposed route.

**B. Early Designation of The Proposed Corridor is Necessary and Appropriate**

In the NOI, the Department invited parties to identify transmission corridors for which there is a particularly acute need for early designation as a NIETC. (71 Fed. Reg. at 4.) There are a number of reasons why early designation is necessary and appropriate here. First, studies by an independent transmission operator (NYISO) and an affected Transmission Owner (Con Edison) already have been performed that identify SENY as an area that will be constrained by lack of adequate and reliable sources of electricity in the near future. An additional national congestion study of this constrained geographic area is not necessary.

It is essential that the DOE designate the proposed corridor on an expedited basis. The NYISO RNA estimates that unless addressed this transmission constraint could result in a resource adequacy criterion violation as early as 2008, and that the "New York State bulk-power baseline system for the first Five Year period (2005-2010) indicates that the forecasted system does not meet reliability criteria." (RNA at 4.) Thus, immediate solutions to this constraint are needed. As presently contemplated, NYRI expects an in-service date to address reliability needs by 2011. The marginal difference between early designation and the standard designation process contemplated by DOE could well be critical to meeting the NYISO's imminent reliability needs.

Expedited designation of the proposed corridor as a NIETC would also help carve out rights for the NYRI Project that might otherwise not be available. For a project developer with no current transmission-related revenue stream, it would provide invaluable assistance in helping develop a project. This includes sending appropriate signals about the project's importance to other regulators and lenders and investors. The viability of a meritorious project will thus be bolstered.

Finally, early designation of the proposed corridor also is necessary and appropriate in light of the size and prominence of the load pocket in southeastern New York. For decades there has been major congestion in this area, and there is no reason not to recognize this expeditiously so that transmission solutions can materialize. Indeed, if any corridor merits early designation, this is it.

### **C. DOE's Draft Criteria for Designating NIETCs**

In the NOI, DOE also invited comments on the draft criteria it would use for gauging the suitability of geographic areas as NIETCs. (71 Fed. Reg. at 5660.) Because DOE has not yet finalized the criteria and NYRI is seeking early designation, NYRI does not have the benefit of being able to demonstrate how the proposed transmission corridor and project matches DOE's ultimate criteria. However, for purposes of this filing, NYRI addresses the draft criteria identified in the NOI.

The first three draft criteria in the NOI: (1) whether designation of the corridor will help achieve economic benefits for consumers, (2) whether designation of the corridor will help improve and maintain reliability and (3) whether designation of the corridor will help bring additional supplies and power from diverse resources into constrained areas, have been addressed above. The remaining draft criteria are addressed as follows:

#### **4. The Proposed Corridor Will Aid U.S. Energy Independence**

By relieving congestion and increasing the available capacity to transfer generation to load in New York, the designation of the proposed corridor will aid U.S. energy independence. In particular, new transmission facilities constructed along the corridor would increase the amount of renewable generation that can reach demand in southeastern New York. Increased transmission capacity available will encourage the development of renewable energy sources, which will proportionately lessen the dependence of New York resources on imported fossil fuels.

#### **5. The Proposed Corridor Will Help Further National Energy Policy**

Congress, DOE and the Federal Energy Regulatory Commission ("FERC") have articulated a national energy policy that seeks to encourage the development of new transmission infrastructure. See Energy Policy Act of 2005 § 1241, Pub. L. No. 109-58, 119 Stat. 594 (2005); Promoting Transmission Investment through Pricing Reform, Notice of Proposed Rulemaking, 113 FERC ¶ 61,182 (2005) ("Transmission Pricing NOPR"). On numerous occasions, FERC has discussed the need for new transmission facilities across the country, and particularly in constrained regions of the country such as southeastern New York. (See Transmission Pricing NOPR at 2; Policy Statement Regarding Evaluation of Independent Ownership and Operation of Transmission, 111 FERC ¶ 61,473 [2005]; Proposed Pricing Policy for Efficient Operation and Expansion of Transmission Grid, 102 FERC ¶ 61,032 [2003].)

As FERC noted, while investment in transmission infrastructure has declined over the last thirty years, electric load has more than doubled, "resulting in a significant decrease in transmission capacity relative to load in every North American Electric Reliability Council region." (Transmission Pricing NOPR at 1.) Designation of the proposed corridor as a NIETC would facilitate the construction of new transmission assets in this constrained

region, which furthers this national policy of encouraging transmission investment.

Furthermore, Congress and FERC also have emphasized the importance of encouraging renewable and other environmentally friendly generation. Current constraints in the proposed corridor inhibit the ability to deliver large amounts of renewable energy products from upstate areas to southeastern New York. The proposed transmission facility would relieve these constraints and facilitate the delivery of an increased amount of renewable and clean generation to load in SENY.

Indeed, increased transmission along this corridor also will reduce the amount of SO<sub>x</sub> and NO<sub>x</sub> emissions from power plants, specifically in the southeast and Lower Hudson Valley of New York, as a result of newer, more compliant generating facilities gaining broader access to the market. GE Energy's analysis of the NYRI project shows that emissions of SO<sub>x</sub> will be reduced by 10,406 tons annually and emissions of NO<sub>x</sub> will be reduced by 2,032 tons annually as a result of this project.

#### **6. The Proposed Corridor Will Reduce Load's Vulnerability to Disruption From Natural Disaster or Malicious Acts**

The proposed corridor and any additional transmission facilities would encourage a diversification of resources and would provide those resources with improved access to the transmission grid. This diversity, in and of itself, will reduce the vulnerability of the transmission system and of load in the New York control area from disruptions of service due to natural disasters and/or malicious actions. A new transmission line into one of the most populous areas of the state will offer additional, redundant transmission options in the event other transmission lines are damaged or destroyed. New transmission will also make additional generation resources available should a generating unit be prevented from operating.

#### **7. The Need for the New Transmission Facilities in the Proposed Corridor is Immediate and Non-Contingent**

The need for additional generation supplies in southeastern New York is well documented and not contingent upon uncertain future events. (See Bottleneck Report at 50-52.) The area currently has a high level of demand that may not be able to be supplied in the future by the state's existing generation or transmission resources. Thus, it cannot be said that this need is unduly contingent upon any uncertainties. The need exists presently and will only continue to exist (and indeed, will grow) as the population in SENY maintains current levels or increases.

#### **8. Alternative Means of Mitigating the Need Met by Designation of the Proposed Corridor are not Available**

DOE has recognized that some areas of need "may be possible to address...through functional alternatives such as distributed generation, conventional generation sited close to

load, and/or enhanced demand response capacity." (71 Fed. Reg. at 5661.) The availability of alternative means of mitigating the need in question is also one of DOE's draft criteria. Such alternatives are not available with regard to the proposed corridor or the proposed NYRI Project. There is an urgent need for generation in SENY, and the alternatives noted by DOE are not feasible solutions to this need.

First, generation development in SENY has been inadequate. According to the NYISO, continued load growth in SENY, in conjunction with impending generation retirements and changes to neighboring systems, will result in a resource adequacy criterion violation by 2008. (See RNA at 4-5.) Small-scale distributed generation is not sufficient to meet the vast generation needs in southeastern New York and larger-scale distributed generation has not been sufficiently developed in the area to ease the congestion. Second, it is extremely difficult and expensive to site conventional generation close to load in a heavily populated area like southeastern New York. It will be more efficient to construct additional transmission facilities bringing power into SENY from another part of the state than it would be to construct new generation facilities in this region.

#### **IV. CONCLUSION**

For the reasons set forth herein, NYRI respectfully requests that the Department consider NYRI's proposed transmission corridor for early designation as a NIETC

Very truly yours,

COUCH WHITE, LLP

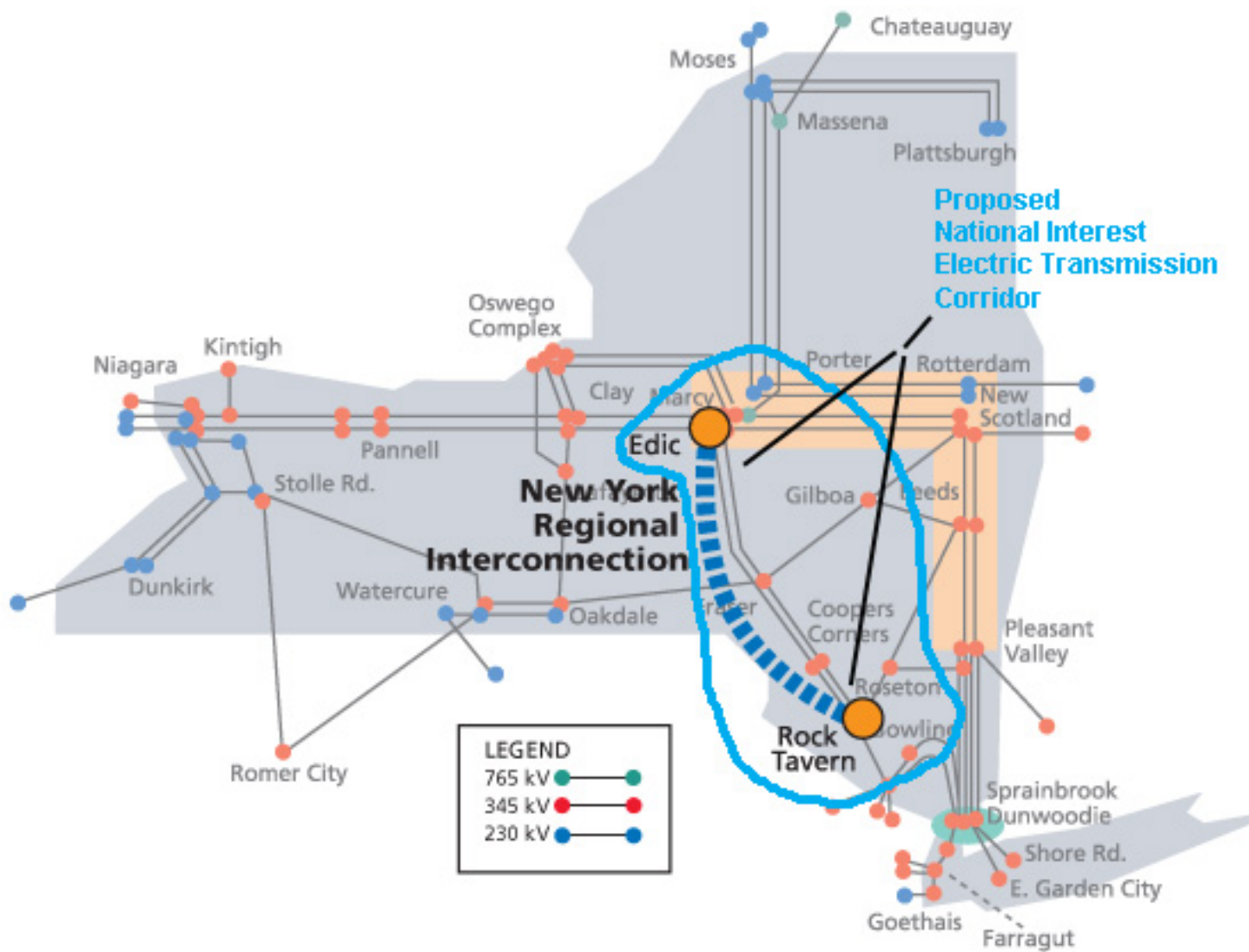
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## EXHIBIT A



## EXHIBIT B

# New York Control Area Load Zones with NYRI

